THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 16401 of 2006

Dated: 21.08.2006

Between:

M. Reddeppa Naidu, S/o Gopala Naidu, Controller, E.No. 68613, R/o CTM Road, Devata Nagar, Madanapalli, Chittoor District.

..... PETITIONER

AND

The Regional Manager, A.P.S.R.T.C., Tirupathi, Chittoor District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 16401 of 2006

Order:

The present writ petition is filed questioning the proceedings No.02/95(100)/2000-MPL I, dated 04.09.2001 issued by the Depot Manager, imposing the punishment of deferment of annual increment for a period of two years with cumulative effect and recovering an amount of Rs.9,420/- from the salary of the petitioner in ten equal instalments besides treating the period of suspension as “not on duty”, and the proceedings No.Steno/19(68)/2002-DVM(C), dated 27.09.2002 of the Divisional Manager-respondent No.2 rejecting the appeal filed by the petitioner.

The petitioner, who is working as Controller with the respondent-Corporation, was issued with a charge sheet and suspension order, dated 30.11.2000, alleging that he made double duty advance payment 64 times worth of Rs.9,420/- to one S.A. Basha, Driver of Madanapalle-I Depot, who has not at all performed double duties, during the period from 23.11.1998 to 06.07.2000 without any cross check with double duty performance register, resulting in loss to the income of the Corporation. After conducting a regular enquiry and considering the explanation submitted by the petitioner, the Depot Manager, vide proceedings, No.02/95(100)/2000-MPL I, dated 04.09.2001, imposed the punishment of deferment of annual increment for a period of two years with cumulative effect and recovering an amount of Rs.9,420/- from the salary of the petitioner in ten equal instalments besides treating the period of suspension as “not on duty”. Aggrieved by the said orders, the petitioner preferred an appeal before the Divisional Manager-respondent No.2, which was rejected by order, dated 27.09.2002. Hence, the present writ petition.

Learned counsel for the petitioner submitted that there is no evidence either to establish that the petitioner has committed any misappropriation or to substantiate the charges leveled against him. He further submitted that the petitioner was discriminated from similarly

placed persons, as other similarly placed persons were visited with simple punishment, while the petitioner was visited with major punishment. He submits that the action of the respondents in leaving all similarly situated persons un-punished and subjecting the petitioner alone for punishment is nothing but treating equals unequally. He further submitted that there is no *mala fide* intention on the part of the petitioner to defraud the Corporation, and the Depot Manager as well as the Appellate Authority erred in imposing the punishment, which is disproportionate to the proved misconduct.

In the present writ petition the petitioner did not challenge the enquiry proceedings and the only question remains to be answered is whether the punishment imposed is disproportionate to the proved misconduct. The petitioner was charge sheeted alleging that he made payments to false double duty claims made by one S.A. Basha, Driver, who has not at all performed double duties, and that having not satisfied with the explanation offered by the petitioner to the show cause notice issued by the Depot Manager, a regular enquiry was ordered, wherein the charges leveled against the petitioner were proved and based on the report of the enquiry officer, a show cause notice was issued to the petitioner and after considering his explanation, the Depot Manager imposed a penalty of withholding annual increment for a period of two years with cumulative effect and recovering an amount of Rs.9,420/- from his salary besides treating the suspension period as not on duty, which was also confirmed by the appellate authority and no exception can be taken thereto, more so having regard to the judgment of the apex Court in ***Regional Manager, Rajasthan SRTC v. Sohan Lal***[1], wherein it was held that it is not within the normal jurisdiction of the superior courts to interfere with the quantum of sentence imposed by the disciplinary authority, unless it is shown that the sentence imposed is wholly disproportionate to the

misconduct proved. The petitioner has not made out any ground to show that the punishment imposed by the disciplinary authority is disproportionate to the proved misconduct.

There is no merit in the writ petition and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 21.08.2006
Nsr/Ksr

[1] (2004) 8 SCC 218